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2/09/2005

Date of Signature

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In RE:

Serial no.: 09/925,696

Filing date: 08/09/2001

For: Weigela Plant named 'Pink Poppet'

Inventor: Benetka

Atty. Docket no.: P44

Group Art Unit: 1661

Examiner: Grunberg

**RESPONSE**

This is in response to the Office Action dated January 26, 2005.

No additional fees are believed to be necessary.

**Rejection under 35 U.S.C. 102b:**

The claim was rejected under 35 USC 102b as being anticipated by Plant Breeders Right documents AU PBR 1998014, grant number 1325 and CZ PBR 0WEI06556, grant number 679 in view of Piccolo being sold in the Czech Republic in 1995.

The combination of a non-enabling printed publication with foreign commercial use is not a bar to patentability under 35 U.S.C. 102(b) for plant patents. Every element of a new plant variety can not be disclosed in a printed publication. A non-